

*George F. Houghton*  
*S. Albans.*

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**JOURNAL**  
OF THE  
**COUNCIL OF CENSORS.**  
**1827.**

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# **JOURNAL**

OF THE

## **COUNCIL OF CENSORS,**

AT THEIR SESSIONS AT

**MONTPELIER AND BURLINGTON,**

IN

**JUNE, OCTOBER, AND NOVEMBER,**

**1827.**

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PUBLISHED BY ORDER OF COUNCIL.

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## JOURNAL, &c.

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**T**HE Council of Censors, elected on the last Wednesday of March, A. D. 1827, assembled at the state house in Montpelier on the first Wednesday of June, being the sixth day of said month, in the year of our Lord 1827, and of the independence of the United States, the fifty-first;—when the following named persons appeared, produced their credentials, and took their seats, to wit:

ASA AIKENS,  
WILLIAM A. GRISWOLD,  
DANIEL KELLOGG,  
JOHN W. DANA,  
JEDEDIAH H. HARRIS,  
OBADIAH NOBLE, junior,  
WILLIAM GATES,  
WILLIAM HOWE,  
EZEKIEL P. WALTON,  
BATES TURNER.

The Council being called to order, the Hon. ASA AIKENS was elected President, and DANIEL KELLOGG, Secretary.

Mr. Griswold, on motion, introduced the following resolution:

*“Resolved, That the Rev. Chester Wright be requested to attend this Council, as their Chaplain, during the present session, and that the meeting of the Council be opened with prayer, at nine o'clock, every morning.”*

Which was read and adopted.

Mr. Walton, on motion, introduced the following resolution:

*“Resolved, That the Sheriff of Washington county, in person or by deputy, be requested to attend this Council, during their present session.”*

Which was read and adopted.

Mr. Griswold, on motion, introduced the following resolution :

*“Resolved; That a committee, consisting of three persons, be appointed to report rules for the government of the Council.”*

Which was read and adopted.

Whereupon Messrs. Griswold, Noble, and Turner were appointed said committee.

Adjourned to 2 o'clock, P. M.

2 O'CLOCK, P. M.

The Council met pursuant to adjournment.

SAMUEL S. PHELPS, LEONARD SARGENT, and JOEL ALLEN, Esquires, severally appeared in the Council, produced their credentials, and took their seats.

The committee appointed to report rules for the government of the Council, reported the following, to wit :

#### **“RULES OF THE COUNCIL OF CENSORS.**

*First.*—The Council shall meet every day, (Sundays excepted) at nine o'clock in the morning and at two o'clock in the afternoon, unless otherwise specially ordered.

*Second.*—All committees shall be appointed by the President, but such appointment may, on motion of any member, be overruled by the Council, in which case the Council shall, on the nomination of a member, immediately fill the vacancy.

*Third.*—The President shall take the chair at the hour to which the Council stands adjourned, and when a quorum shall have assembled, he shall call to order and proceed to business.

*Fourth.*—No member shall absent himself from the service of the Council, unless he have leave of absence or be unable to attend.

*Fifth.*—The yeas and nays may be taken and entered upon the journal, upon the call of a member.

*Sixth.*—A motion to adjourn shall be always in order. Motions on resolutions and other subjects of deliberation shall have precedence as follows, to wit :

1st—To dismiss.

2d—To postpone to a day certain.

3d—To lie on the table.

4th—To commit.

5th—To amend.

WILLIAM A. GRISWOLD, *for committee.*”

Which was read and adopted.

Mr. Griswold, on motion, introduced the following resolution :

*Resolved*, That it is inexpedient to alter or amend the constitution of this state."

Which was read and ordered to lie upon the table, and made the order of the day for to-morrow morning.

On motion of Mr. Sargent, *Voted*, To reconsider the vote postponing the consideration of the resolution introduced by Mr. Griswold.

On motion of Mr. Sargent, said resolution was committed to a committee of the whole.

The Council resolved itself into a committee of the whole, Mr. Howe in the chair, when the said resolution came under consideration.

The committee of the whole rose and reported to the Council, that it was inexpedient to pass said resolution. Whereupon the Council resolved, unanimously, not to pass said resolution.

Adjourned to 9 o'clock, to-morrow morning.

THURSDAY, JUNE 7TH—9 O'CLOCK, A. M.

The Council met pursuant to adjournment.

Mr. Phelps, on motion, introduced the following resolution, to wit:

*Resolved*, That it is expedient so to amend the constitution of this state, as to provide for a Senate, making them a co-ordinate branch of the legislature."

Which was read and committed to a committee of the whole.

The Council resolved itself into a committee of the whole, Mr. Noble in the chair, when the aforesaid resolution came under consideration. Whereupon the committee resolved to recommend to the Council the passage of said resolution.

The committee of the whole rose, and through their chairman, reported to the Council, that it was expedient to pass said resolution; whereupon the Council resolved unanimously to adopt said resolution:

The Secretary, on motion, introduced the following resolution, to wit:

*Resolved*, That a committee of three be appointed to inquire into the expediency of so amending the constitution, that no member of either branch of the legislature, shall, during the term for which he is elected a member thereof, be eligible to any judicial appointment under the authority of this state."

Which was read and adopted, and Messrs. Kellogg, Sargent and Howe, were appointed said committee.

Mr. Phelps, on motion, introduced the following resolution:

*Resolved*, That a committee of three members be appointed,

whose duty it shall be to inquire whether the right of suffrage can legally be exercised in this state by persons not owing allegiance to the government of the United States, and whether it be expedient to recommend any alteration of the constitution or existing statute on that subject."

Which was read and passed, and Messrs. Phelps, Turner and Allen were appointed the committee.

Mr. Griswold, on motion, introduced the following resolution :

"*Resolved*, That a committee of two persons be raised for the purpose of inquiring whether the twenty-sixth section of the constitution has been preserved inviolate and more particularly to inquire whether any person or persons holding any office of profit or trust under the authority of Congress, have been considered as eligible to appointments in the legislature, or whether any such persons have been permitted to hold any executive or judiciary offices under this state."

Which was read and passed, and Messrs. Griswold and Walton were appointed the committee.

The President introduced the following resolution :

"*Resolved*, That in case the Council shall call a convention, it is expedient to propose so<sup>t</sup> to amend the constitution, that whenever there shall appear to a Council of Censors, an absolute necessity of amending any article of the constitution which may be defective, explaining such as may be thought not to be clearly expressed, or of adding such as may be found necessary for the preservation of the rights and happiness of the people, the Council of Censors may propose such amendment, explanation or addition, directly to the people for their adoption, instead of calling a convention to adopt the same."

Which was read and laid upon the table.

Adjourned to 2 o'clock P. M.

2 o'clock, P. M.

The Council met pursuant to adjournment.

Mr. Sargent presented the memorial of Reuben H. Blackmer, and the accompanying papers, which were read and laid upon the table.

Mr. Sargent presented the memorial of Robert Willson and others, which was read and laid upon the table.

The resolution introduced by the President, was called up and referred to a committee of three members; whereupon, Messrs. Phelps, Turner and Noble were appointed said committee.

Mr. Sargent, on motion, introduced the following resolution :

"*Resolved*, That a committee consisting of three, be raised whose duty it shall be to inquire, whether the constitution has been pre-

served inviolate in every part the last septenary, and whether the legislative and executive branches of government have performed their duty as guardians of the people, or assumed to themselves, or exercised other or greater powers than they are entitled to by the constitution."

Which was read and passed.

Committee appointed, Messrs. Sargent, Harris and Dana.

Mr. Griswold, on motion, introduced the following resolution:

"*Resolved*, That a committee of two persons be appointed to make inquiry, whether the public taxes have been justly laid and collected in all parts of the commonwealth."

Which was read and adopted; whereupon, Messrs. Noble and Gates were appointed said committee.

Mr. Phelps, on motion, introduced the following resolution:

"*Resolved*, That a committee of three members be appointed, whose duty it shall be to propose and submit to this Council, a draft of an amendment to the constitution of this state, providing for a Senate, as a co-ordinate branch of the legislature, agreeably to the resolution of this Council."

Which was read and adopted, and Messrs. Phelps, Walton and Dana were appointed the committee.

Mr. Phelps, on motion, introduced the following resolution:

"*Resolved*, That a committee of three members be appointed to inquire whether any, and if any, what amendment is necessary in the constitution of this state, so far as the same relates to the judiciary department."

Which was read and adopted, and Messrs. Turner, Harris and Howe were appointed the committee.

Mr. Griswold, on motion, introduced the following resolution:

"*Resolved*, That the committee raised on the subject of the levying and collection of the public taxes, be instructed also to inquire whether the public officers, appointed to collect and receive the monies due the state, have regularly accounted for the same to the proper department, and whether the laws have been duly executed in this respect."

Which was read and adopted.

The memorial of Robert Willson and others, was called up and referred to a committee of two members. Committee appointed, Messrs. Kellogg and Allen.

The memorial of Reuben H. Blackmer, was called up and referred to the committee raised on the resolution, introduced by Mr. Sargent, on the 7th instant.

Adjourned to 9 o'clock to-morrow morning.

FRIDAY, JUNE 8—9 O'CLOCK, A. M.

The Council met pursuant to adjournment.

Mr. Phelps, on motion, was excused from serving on the committee raised on the resolution introduced by the President, on the seventh instant, and the President was appointed to fill the vacancy.

The Council, on motion of Mr. Griswold, resolved to add to the committee, raised on the resolution introduced by Mr. Griswold, on the seventh instant, relating to the levying and collecting of the public taxes, one member; whereupon, the President was appointed upon said committee.

Adjourned to the third Monday of October next, to meet at the court house in Montpelier.

Attest—DANIEL KELLOGG, *Secretary*.



## SECOND SESSION.

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MONTPELIER, MONDAY, OCTOBER 15, 1827, }  
9 o'clock, A. M. }

The Council met pursuant to adjournment.

The President called to order, and the meeting of the Council was opened by prayer, by the Rev. Chester Wright. A quorum not appearing, the Council adjourned to 2 o'clock, P. M.

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2 o'clock, P. M.

The Council met, pursuant to adjournment; and the Secretary being absent, E. P. Walton was appointed Secretary, *pro. tem.*

Mr. Harris, on motion, introduced the following resolution:

"*Resolved*, That the Sheriff of Washington county be requested to attend upon this Council, by himself or deputy, during the present session."

Which was read and passed.

Mr. Sargent, on motion, introduced the following resolution:

"*Resolved*, That the Rev. Chester Wright be requested to attend, as Chaplain of this Council, during their present session."

Which was read and passed.

On motion of Mr. Sargent, an additional member was appointed on the committee raised on the resolution introduced by Mr. Kellogg, on the 7th June, relative to the propriety of members of either branch of the legislature, during their appointment, holding judicial offices. Mr. Noble appointed on the committee.

Adjourned to 9 o'clock, to-morrow morning.

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TUESDAY, OCTOBER 16—9 o'clock, A. M.

The Council met pursuant to adjournment.

The following communication was received from the Secretary:

"MONTPELIER, Oct. 15, 1827.

Sir: You will please to communicate to the Council of Censors, that official duties require my attendance upon the Governor and Council at the present time; and that consequently it is inconvenient for me to attend to the duties of Secretary to the Council of Censors. I therefore beg leave, sir, to resign said appointment,

I have the honor to be,

Respectfully, your ob't servant,

DANIEL KELLOGG,

The Hon. ASA AIKENS, President  
of the Council of Censors."

The resignation was accepted, the Secretary excused, and E. P. WALTON was appointed Secretary.

On motion of Mr. Sargent, the committee raised upon the resolution introduced by him on the 7th June, were discharged from the further consideration of the subject.

Mr. Noble, on motion, introduced the following resolution:

"Resolved, That there be a committee of three appointed, whose duty it shall be, to examine the laws passed by the legislature in the years 1821, 1822, and 1823; and also a committee of three members to take into consideration the laws passed by the legislature in the years 1824, 1825, and 1826."

Which was read and passed; and Messrs. Noble, Howe, and Dana were appointed the first committee; and Messrs. Sargent, Harris, and Turner, the second.

On motion of Mr. Harris, the memorial of Reuben H. Blackmer was called up, and the committee to whom it was referred were discharged from any further consideration of the same; and the memorial referred to the second committee to be raised on the resolution of Mr. Noble. To which committee was also referred the memorial of Henry Lake, introduced by Mr. Sargent.

Adjourned to 2 o'clock, P. M.

2 O'CLOCK, P. M.,

The Council met pursuant to adjournment.

Mr. Harris, on motion, introduced the following resolution:

"Resolved, That the President of this Council be added to the committee raised on a resolution, introduced by Mr. Phelps, for the purpose of furnishing a draft, providing for a Senate, as a co-ordinate branch of the legislature."

Which was read and passed.

Adjourned to 9 o'clock, to-morrow morning.

WEDNESDAY, OCTOBER 17—9 O'CLOCK, A. M.

The Council met pursuant to adjournment.

Messrs. Dana and Gates appeared and took their seats.

A communication from Robert B. Bates, Esquire, Speaker of the House of Representatives, conveying a copy of a resolution, inviting this Council on the floor of the House, was communicated by the President.

The committee to whom was referred the resolution introduced by the President, on the 7th June last, made the following

### REPORT,

*"To the Honorable the Council of Censors, now in session:*

Your committee to whom was referred the resolution recommending an amendment to the forty-third article of the second chapter of the constitution of this state, respectfully report the following article for the consideration of the Council,

ARTICLE.—Whenever any Council of Censors shall propose any amendment, explanation, or addition to the constitution of this state, they shall propose the same directly to the people for their adoption, instead of calling a convention to adopt the same; in which case, they shall, by an ordinance to be by them promulgated for that purpose, call upon the freemen of the state qualified to vote for representatives to the General Assembly to meet at the place of the last freemen's meeting in their towns respectively, on a day and hour to be designated in such ordinance, for the purpose of voting upon the amendments which the Council of Censors shall have proposed. And the articles to be amended and the amendments proposed and such articles as are proposed to be added or abolished shall be promulgated at least six months before the day for such freemen's meeting,

And the Council of Censors shall, in such ordinance designate the method in which the freemen shall be supplied with ballots, the manner in which their votes shall be expressed, the time, place and manner of their return, and how and by whom the result shall be ascertained and certified to the Governor. And when the result of such balloting shall have been certified to the Governor, or in his absence or disability to the Lieutenant Governor, he shall by proclamation make the same known to the people. And such article or articles as shall have been adopted by a majority of the freemen voting as aforesaid, he shall cause to be transcribed and certified under his hand and the seal of the state, and deposited in the office of the Secretary of State. And the Secretary of State shall record the same. And they shall thereupon become and thenceforth be a part of the

constitution of this state, and, as such, binding on the inhabitants thereof forever.

All which is respectfully submitted.

A. AIKENS, *for the committee.*

October 17, 1827."

Which report was read and laid upon the table.

Adjourned to 2 o'clock, P. M.

2 o'clock, P. M.

The Council met pursuant to adjournment; and adjourned to 9 o'clock, to-morrow morning.

THURSDAY, OCTOBER 18—9 o'clock, A. M.

The Council met pursuant to adjournment.

The committee to whom was referred the memorial of Reuben H. Blackmer, and the petition of Henry Lake, made the following

# **REPORT.**

*"To the Council of Censors, now in session:*

Your committee to whom was referred the memorial of Reuben H. Blackmer, report, that the act of the legislature, passed Nov. 17, 1825, and referred to in said memorial, is not, (in the opinion of your committee) in violation of any article of the constitution of this state.

The same committee, to whom was referred the petition of Henry Lake, upon the same subject, report, that said petition ought to be dismissed.

All which is respectfully submitted.

L. SARGENT, *for committee."*

Which was accepted, and the report laid upon the table.

Adjourned to 2 o'clock, P. M.

2 o'clock, P. M.

The Council met pursuant to adjournment.

The committee to whom was referred the resolution introduced by Mr. Phelps, raising a committee to prepare amendments to the constitution, providing for a Senate, made the following

## REPORT.

*"To the Honorable the Council of Censors, now in session:*

Your committee to whom was referred the resolution raising a committee to prepare amendments to the constitution, providing for a Senate, respectfully report the following articles, viz:

ARTICLE 1. The most numerous branch of the legislature of this state shall hereafter be styled the House of Representatives.

ARTICLE 2. The supreme legislative powers of this state shall hereafter be exercised by a Senate and the House of Representatives. These two bodies shall together be styled "The General Assembly of the State of Vermont." Each shall have and exercise the like powers in all acts of legislation, and no bill, resolution, or other thing, which shall have been passed by the one, shall have the effect of, or be declared a law, without the concurrence of the other.

ARTICLE 3. The Senate shall be composed of *twenty-eight* Senators, to be of the freemen of the county for which they are chosen respectively, who are of the age of thirty-five years and upwards, and to be elected by the freemen of each county respectively. Each county shall be entitled to one senator, and the remainder of the senators shall be apportioned to the several counties in proportion to their population, according to the last census of the United States, regard always being had in the apportionment, to the counties having the greatest fraction. The several counties shall, until after the next census of the United States, be entitled to elect their senators in the following proportion, to wit: Bennington county, two—Windham county, three—Rutland county, three—Windsor county, four—Addison county, two—Orange county, three—Washington county, two—Chittenden county, two—Caledonia county, two—Franklin county, two—Orleans county, one—Essex county, one—and Grand-Isle county, one. The legislature shall make a new apportionment of the senators to the several counties, after the taking of each census of the United States, always regarding the above provisions in this article.

ARTICLE 4. After the adoption of the preceding articles, the freemen of the several towns in each county shall annually give their votes for the number of senators apportioned to such county, at the same time and under the same regulations, as is now provided for the election of councillors. And the person or persons equal in number to the number of senators for such county, having the greatest number of legal votes, in his or their county respectively, shall be the senator or senators for such county. At every election of senators, after the votes shall have been taken, the constable or presiding offi-

cer, assisted by the selectmen and civil authority present, shall sort and count the said votes, and make two lists of the name of each person, with the number of votes given for each, annexed to his name; a record of which shall be made in the town clerk's office; and shall seal up such lists separately, and write on each the name of the town, and these words, "Votes for Senator," or "Votes for Senators," as the case may be, one of which lists shall be delivered by the presiding officer to the representative of said town, if any, and if none be chosen, to the representative of an adjoining town, to be transmitted to the President of the Senate, the other list the said presiding officer shall, within ten days, deliver to the clerk of the county court for the same county, and the clerk of each county court respectively, or in case of his absence or disability, the sheriff of such county, or in case of the absence or disability of both, the high bailiff of such county, on the tenth day after such election; shall publicly open, sort and count said votes, and make a record of the same, in the office of the clerk of the county court, a copy of which he shall transmit to the Senate, and shall also, on or before the first day of October (then next) transmit to the person or persons, elected, a certificate of his or their election.

SECTION 5. The Senate shall have the like powers, to decide on the election, and qualifications, and to expel any of its members, and make its own rules and appoint its own officers, as is provided in the case of the House of Representatives. A major part of the Senators shall constitute a quorum. The Lieutenant Governor shall be President of the Senate, except when he shall exercise the office of Governor, in which case, and when the office shall be vacant, and in the absence of the Lieutenant Governor, the Senate shall appoint one of its own members, President pro. tempore.

The Lieutenant Governor when presiding in the Senate, shall have a casting vote, but no other.

SECTION 6. The Senate shall have the sole power to try all impeachments; when sitting for that purpose, they shall be on oath or affirmation, and no person shall be convicted without the concurrence of two thirds of the members present. Judgment in cases of impeachment, shall not extend farther than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit, under this state, but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SECTION 7. The supreme executive power of the state shall be exercised by the Governor, or in case of his absence or disability, by the Lieutenant Governor, who shall exercise all the powers vested

in, and perform all the duties, enjoined upon the Governor and Council by the eleventh section of the second chapter of the constitution, except he shall not sit as a judge, to hear and determine on any impeachment, nor grant reprieve or pardon, in any such case, nor shall he command the forces of the state in person, unless on the advice and consent of the Senate, and then only so long as it shall approve thereof. The Governor may have a Secretary of civil and military affairs, whom he may appoint (*de bene placito*) whose services he may at all times command, and for whose compensation, provision shall be made by law.

SECTION 8. The votes for Governor, Lieutenant Governor and Treasurer of the state shall be sorted and counted, and the result declared, by a committee appointed by the Senate and House of Representatives. If at any time, there shall be no due election by the freemen, of Governor, Lieutenant Governor or Treasurer of the state, the Senate, with the House of Representatives, shall by a joint ballot, elect to the office of Governor, Lieutenant Governor or Treasurer of the state as the case may be, one of the three candidates for those offices respectively, for whom the greatest number of votes shall have been returned.

SECTION 9. The Secretary of state, and all officers who under the existing provisions of the constitution are elected by the House of Representatives and Council, shall hereafter be elected by the Senate and House of Representatives, in joint committee, at which the Governor, or in his absence or disability, the Lieutenant Governor shall preside, and the presiding officer of any such committee shall have a casting vote and no other.

ASA AIKENS, *for the committee.*

October 13, 1827.<sup>11</sup>

Which, on motion of Mr. Harris, was referred to the committee of the of whole, Mr. Howe in the chair.

*In committee of the whole, October 13, 1827.*

The several articles of amendment were read, article by article.

Mr. Noble moved to amend the second article by adding the following:

"*Provided, That all bills for raising revenue, shall originate in the House of Representatives.*"

Which proposal of amendment was laid upon the table.

On motion of Mr. Harris, the third article was amended by erasing the word "*five*."

On motion of Mr. Turner, the third article was further amended by inserting the words, "*and no more*" immediately after the word Senators in the second line.

After further investigation and discussion, the articles were severally laid on the table, when, on motion of Mr. Griswold, the committee rose, reported progress and obtained leave to sit again.

Mr. Harris, on motion, introduced the following resolution:

*Resolved*, That the Secretary of this Council be directed to procure the printing of fifteen copies of the draft, reported by the committee, raised upon the resolution introduced by Mr. Phelps, providing for a Senate as a co-ordinate branch of the legislature, for the use of this Council."

Which was read and passed.

Adjourned to 9 o'clock to-morrow morning.

FRIDAY, OCTOBER 19—9 O'CLOCK, A. M.

The Council met pursuant to adjournment.

Mr. Phelps appeared and took his seat as a member of the Council.

The committee, raised upon the resolution of Mr. Noble, to examine the laws passed in the years 1821, 1822 and 1823, made the following

### REPORT.

*"In Council of Censors, 1st October, 1827.*

The committee appointed to examine the laws passed by the legislature of this state in the years 1821, 1822, and 1823, report, that the several acts passed by said legislature at their October session, 1821, for the relief of Nathan Gibbs, Nathaniel Blood, Samuel Beards, Philo Castle, Samuel Parker, Nathaniel Allen, John Law, Joseph Parker, Joel Hill, Moses Aldrich, Benjamin Boord, Jeremiah Morril, Lyman King, and Charles Preston, freeing their bodies from arrest and imprisonment, and the several acts of the same session, for the relief of Hubbel Mitchell, Tilley H. Cleasby, James Miner, Nathaniel Waldron, jr., John Fry, John M. Jewett, Cyrus Clement, Moses Myers, Hozea White, Elijah Southard, Orren Kelsey, Joseph Clifford, Benjamin Heart, Samuel Carr, Curtis Kelley, jr., Warren Evans, Rufus Woodward, and Thomas Stanton, authorizing them to take the oath prescribed for poor debtors; and the acts passed the same session, grating new trials to Silas Hathaway and Uzal Parsons and to William Strong; and the several acts passed at the October session, 1823, for the relief of Isaac Kimball, Daniel Staniford, and Alexander Campbell, authorizing them severally to appeal from the determination of commissioners upon insolvent estates, are, in the opinion of your committee, contrary to the principles of the constitution.

O. NOBLE, jr. *for committee.*"



Which was read and accepted and laid upon the table.

Adjourned to 2 o'clock, P. M.

2 o'clock, P. M.

The Council met pursuant to adjournment, when,

On motion of Mr. Harris, the Council resolved itself into committee of the whole, Mr. Howe in the chair:

*In committee of the whole, October 19, 1827.*

The printed report of proposals of amendment to the constitution being under consideration, several propositions of amendment to the report were made and severally discussed, when the committee rose, reported, and, on motion of Mr. Noble, were discharged from further consideration of the articles of amendment.

Mr. Noble, on motion, introduced to the Council the following amendment to the second article:

*"Provided, That all bills for raising revenue, shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills."*

Which was read and passed, and the report, on motion of Mr. Phelps, was laid upon the table.

On motion of Mr. Turner, a member was added to the committee raised on the resolution of Mr. Kellogg, relative the constitutional right of members of the legislature to hold judicial offices; and Mr. Griswold was appointed on the committee.

Adjourned to 9 o'clock, to-morrow morning.

SATURDAY, OCTOBER 20—9 o'clock, A. M.

The Council met pursuant to adjournment.

The committee raised on the resolution of Mr. Griswold, to inquire whether the twenty-sixth section of the constitution has been preserved inviolate, made the following

# REPORT.

"OCTOBER 20, 1827.

*To the Honorable Council of Censors, now in session:*

Your committee, to whom the consideration of the said resolution was referred, report, that sundry persons holding offices of profit and trust, under the authority of Congress, have been, for several years past, permitted to hold seats as members of the legislature of this state, and also that in sundry instances like persons have been ap-

pointed to, and have exercised judicial offices under the authority of this state, at the same time exercising and performing the duties of offices of profit and trust under the authority of Congress;—and are therefore of opinion that the twenty-sixth section of the constitution has been, in this respect, violated.

WM. A. GRISWOLD, *for committee.*"

Which was read and accepted, and laid upon the table.

The committee raised upon the resolution of Mr. Kellogg, to inquire into the expediency of amending the constitution, made the following

### REPORT.

*"To the Council of Censors, now in session."*

Your committee, raised on the resolution introduced by Mr. Kellogg on the 7th of June last, with instructions to inquire into the expediency of so amending the constitution that no member of either branch of the legislature shall, during the term for which he is elected, be eligible to any judicial appointment under the authority of this state, do report, that it is inexpedient to make any alteration in the constitution on that subject.

L. SARGENT, *Chairman.*"

Which was read and accepted.

The report of the committee raised on the resolution introduced by Mr. Griswold, was called up, and, on motion of Mr. Phelps, was recommitted to the committee, with instructions to report the facts.

The committee raised on the resolution of Mr. Phelps, to inquire whether any, and if any, what amendment is necessary in the constitution of this state, so far as relates to the judiciary department, made REPORT—"That it is inexpedient to make any alteration in the same;" which was read accepted.

The report of the committee to whom was referred the memorial of Reuben H. Blackmer, and the memorial of Henry Lake, was called up, and the memorialists had leave to withdraw their memorials.

The report of the committee raised on the resolution of Mr. Phelps, providing for a Senate, was called up, when,

On motion of Mr. Noble, the Council resolved itself into committee of the whole, Mr. Howe in the chair.

*In committee of the whole, October 20, 1827.*

The committee of the whole took into consideration the report of the committee, proposing sundry amendments to the constitution, providing for a Senate,—and after discussion, rose, reported progress and obtained leave to sit again; and the opening of the Council at

2 o'clock, P. M. was assigned by the President as the hour of its session.

Adjourned to 2 o'clock, P. M.

2 o'clock, P. M.

The Council met pursuant to adjournment.

The second committee raised on the resolution of Mr. Noble, made the following

### REPORT.

*"To the Council of Censors, now in session:*

The second committee raised on the resolution of Mr. Noble, report, that they have attended to the duties required by said resolution, and on inspection of the proceedings of the legislature, your committee find an act, passed Nov. 18, 1824, entitled "An act authorizing the supreme court to sustain the petition of Truman Chittenden, for a new trial;" which act, in the opinion of your committee, is in violation of the constitution of this state. On recurring to the proceedings of the legislature of 1826, your committee find, with regret, that an unfortunate controversy then existed, and, as your committee learn, still exists, between the Executive Council and the House of Representatives, touching the respective powers of these two branches of government, in their acts of legislation.

The first proceeding which has drawn the attention of your committee, relates to a bill entitled "An act to repeal part of an act therein mentioned," passed by the House of Representatives in 1825, sent to the Governor and Council and by that body suspended until the session of 1826. At the session of 1826 the House of Representatives re-passed the said bill and declared the same to be a law, without the concurrence of the Governor and Council. On the 25th October 1826, the Governor and Council adopted a resolution declaring the said proceedings of the House to be an assumption of power, unprecedented and unwarranted by the constitution. On the 8th November following, a resolution passed the House asserting the right of that body to pass suspended bills into laws, at a subsequent session. On the 11th November, 1826, the Governor and Council passed a resolution directing their Secretary to keep suspended bills in his possession, subject to the order of the Governor and Council at their then next session.

On recurring to the constitution under which the two branches of government claim the exercise of their respective powers, your committee are unable to express an unanimous opinion as to the rights

and powers of the two branches of government, or to decide which branch have assumed or exercised other or greater powers than they are entitled to by the constitution. Your committee cannot impute any impure motives to either branch of government, or any member thereof, in the exercise of official power; but believe that the controversy between the two branches has resulted from different constructions of the inexplicit and doubtful language of the constitution, touching the powers of the two branches.

Your committee, therefore, recommend the adoption of the following resolution:

*Resolved*, That it is inexpedient for this Council to pass any opinion or vote upon the proceedings of the legislature of 1826, until the next session of this Council.

All which is submitted, by

L. SARGENT, *for committee.*"

Which was read and laid upon the table.

The hour of the session of the committee of the whole having arrived,

The Council, on motion of Mr. Noble, resolved itself into committee of the whole, Mr. Howe in the chair; when the committee took up the report providing for a Senate, and, having voted sundry amendments to the report, the committee rose, and through their chairman recommended the adoption of the amendments; whereupon the Council voted to adopt the amendments proposed; when,

On motion of Mr. Harris, the report of the committee, as amended, was laid upon the table.

Adjourned to Monday morning, 9 o'clock, A. M.

MONDAY, OCTOBER 22—9 o'clock, A. M.

The Council met pursuant to adjournment.

The report of the committee raised on the resolution of Mr. Phelps, providing for a Senate, was called up and read as amended, and sundry amendments proposed, when, on motion of Mr. Turner, the report, together with the proposed amendments, was recommitted to the committee making the report.

The report of the first committee raised to examine the laws of the years 1821, 1822 and 1823, on motion, was referred to the committee to be raised to draft an address to the people. To the same committee was also referred the report of the second committee raised to examine the laws of the years 1824, 1825 and 1826.

The report of the committee recommending an amendment to the constitution, providing that future amendments be submitted directly to the people, was called up and read, and, on motion, laid upon the table.

Adjourned to 2 o'clock, P. M.

2 o'clock, P. M.

The Council met pursuant to adjournment.

The committee to whom was recommitted the report providing for a Senate, reported the same with an amendment to the fourth article, which was accepted, and, on motion of Mr. Dana, the proposed amendment was adopted by the Council, and the report laid upon the table.

Mr. Harris, on motion, had leave of absence from and after tomorrow morning.

Mr. Phelps, from the committee appointed to inquire into the constitutional right of admitting aliens to the right of suffrage, made the following

### REPORT.

*"To the Council of Censors:*

The committee who were directed to inquire whether the right of suffrage can legally be exercised in this state by persons not owing allegiance to the United States, respectfully report, that the existing provision of the constitution, defining the qualifications of a freeman, is, in the opinion of your committee, objectionable, inasmuch as it admits of two different and opposite constructions. A literal construction of the clause would certainly extend the right of suffrage indiscriminately to all who, under any circumstances, should have resided in the state one full year. The manifest impropriety and danger of such a rule, as well as its repugnancy to the provisions of the constitution of the United States, seems to require that, if the clause in question be susceptible of such a construction, it should be altered or explained. At the same time a different and more liberal mode of construction might be adopted, and one in the opinion of your committee more correct, which, depending not so much on the precise import of particular phraseology as upon general political principles and a reference to the nature and object of the provision in question, would exclude all who do not, in the strictest sense, owe allegiance to the general government of our country. But, whatever may be the true construction, it is well known that a difference of opinion has existed among those whose opinions are entitled to consideration, and that

a different practice has prevailed in different parts of the state. Your committee, therefore, considering that no important provision of the constitution should be left liable to constructions so different, recommend that an explanatory clause should be proposed to be added to the twenty-first section of the plan or frame of government, of the following tenor:

*Provided, That no person, not a native born citizen of this or some one of the United States, shall be entitled to exercise the right of suffrage, unless naturalized agreeably to the acts of Congress.*

All which is submitted.

S. S. PHELPS, *for the committee.*"

Which was read and accepted, and on motion of Mr. Harris, laid upon the table.

Adjourned to 9 o'clock, to-morrow morning.

TUESDAY, OCTOBER 23—9 O'CLOCK, A. M.

The Council met pursuant to adjournment.

Mr. Sargent, on motion, introduced the following resolution:

*"Resolved, That a committee consisting of two be raised, whose duty it shall be to inspect the proceedings of the legislature, now in session, and make report at the next session of this Council."*

Which was read and passed, and, on motion, it was voted that the rule requiring the appointment of all committees by the President be dispensed with; and the President and Mr. Kellogg were appointed the committee.

The report of the committee raised upon the resolution of Mr. Phelps, providing for a Senate, was called up, when

Mr. Phelps moved to amend the report by erasing all that part of the sixth article following the word "quorum," in the fourth line, and inserting in lieu thereof, "The President shall have a casting vote, but no other." Which proposal was read and laid upon the table.

On motion of Mr. Phelps, *Voted*, That the Secretary be directed to procure the printing of fifty-two copies of the report, together with the amendment proposed by Mr. Phelps to the sixth article, for the use of the Council.

The report of the committee raised on the resolution instructing an inquiry into the constitutionality of permitting aliens to exercise the right of suffrage, was called up, discussed, and on motion of Mr. Griswold, was again laid upon the table.

The report of the committee to whom was referred the resolution recommending an amendment to the forty-third article of the second chapter of the constitution; which report recommended to the Council the adoption of an article of amendment to the constitution, that any future Council of Censors, whenever they shall propose any future amendments to the constitution, shall propose the same directly to the people for their adoption, instead of calling a convention; was called up, and on the question, Will the Council adopt the article of amendment proposed in the report? the Council decided in the negative.

Adjourned to 2 o'clock, P. M.

2 o'clock, P. M.

The Council met pursuant to adjournment.

The report of the committee upon the subject of alienage was called up, and on motion of Mr. Griswold, was laid upon the table, and the further consideration of the report referred to the next adjourned session of the Council.

The committee to whom was recommitted the report of the committee raised for the purpose of inquiring whether the twenty-sixth section of the constitution has been preserved inviolate, made the following

### REPORT.

*"In Council of Censors, October 23, 1827.*

Your committee, to whom the report was recommitted, report the following statement of s :—That in the year 1821, Roswell Butler, of Essex, in the county of Chittenden, being a postmaster, and Roger Enos, an inspector of the customs in the revenue department, held seats as members of the legislature of this state—That in the years 1822, 1823 and 1824, the said Roswell Butler, postmaster as aforesaid, held a seat in said legislature, and that during the same years the Hon. Israel P. Dana, then being postmaster, held and exercised the duties of the office of councillor within this state—That in the years 1825 and 1826, David M. Camp, Esq. being an inspector of customs as aforesaid, held a seat as a member of the legislature during said years, and that the said Dana still, being a postmaster, held and exercised the duties of the office of councillor as aforesaid—and that during the same year 1826, Asa Keyes, of Putney, being a postmaster, held a seat as a member of the legislature—and that in the year 1827, Seth Cushman, of Guildhall, and John Beckwith, of Sutton, being inspectors of the customs as aforesaid, and the said

Cushman also a postmaster, have been returned and held seats as members of the legislature—and that David Shelden, jr. Esq. of Rupert, being a postmaster, has held and exercised the duties of the office of justice of the peace for the county of Bennington for several years past—and that during the present year, the Hon. Samuel Weed, being a postmaster, has held and exercised the duties of the office of judge of the county court for the county of Franklin.

WM. A. GRISWOLD, *for committee.*"

Which was read and laid upon the table.

The committee to whom was referred the petition of Robert Willson and others, on motion, were discharged from the further consideration of the petition; the petition was dismissed, and the petitioners had leave to withdraw their petitions."

Adjourned to 9 o'clock, to-morrow morning.

WEDNESDAY, OCTOBER 24—9 o'clock, A. M.

The Council met pursuant to adjournment.

Mr. Griswold introduced the following resolution :

"*Resolved*, as the opinion of this Council, That the twenty-sixth section of the constitution has, during the last septenary, been violated in this respect, to wit : That sundry persons, holding offices of profit and trust under the authority of Congress, have been considered as eligible to appointments in the legislature, and held appointments in the same; and also, that like persons, during said period, have held judicial offices under this state."

Which was read, and on motion, laid upon the table.

Mr. Phelps, on motion, introduced the following resolution :

"*Resolved*, That an ordinance of this Council be passed, calling a convention to meet in the month of June next, to take into consideration such amendments as may be proposed for their adoption, by this Council; and that the Secretary be directed to deliver a copy of this resolution to the Hon. Speaker of the General Assembly, in order that an appropriation may be made to defray the expense of said convention."

Which was read and laid upon the table.

On motion of Mr. Turner, the Council resolved itself into committee of the whole, for the purpose of taking into consideration the report of the committee, providing for a Senate, together with the amendment proposed by Mr. Phelps, Mr. Sargent in the chair.

The committee, after some time spent in investigation and discussion, rose, and through their chairman reported progress and



asked leave to sit again; and 2 o'clock, P. M. was assigned by the President as the hour of its session.

Adjourned to 2 o'clock, P. M.

2 O'CLOCK, P. M.

The Council met pursuant to adjournment.

The resolution introduced by Mr. Phelps, for calling a convention, was called up, and, on motion of Mr. Turner, was again laid upon the table.

The hour of the session of the committee of the whole having arrived, the Council resolved itself into committee of the whole, on the report of the committee providing for a Sonate, Mr. Sargent in the chair.

*In Committee of the whole, Oct. 26, 1827.*

After some time spent in investigation and discussion, the committee on motion, rose, reported progress and asked leave to sit again; and five o'clock this evening was assigned by the President, as the hour of its session.

Mr. Griswold, on motion, introduced the following resolution:

*"Resolved,* That the further consideration of the amendments proposed to the constitution be postponed until the first Wednesday of March next."

Which was read, and, on motion, laid upon the table.

The resolution introduced by Mr. Phelps, resolving to call a convention in June next, was called up, and after discussion on the question, Will the Council adopt the first part of the resolution? the yeas and nays were called, and being taken, were

YEAS—Messrs. Phelps and Turner—2.

NAYS—Messrs. Aikens, Allen, Dana, Gates, Griswold, Howe, Noble, Sargent and Walton—9.

So the resolution was not adopted.

The resolution introduced by Mr. Griswold, resolving to postpone the further consideration of the proposed amendments to the constitution to the first Wednesday of March next, was called up, and the question, Will the Council adopt the resolution? was decided in the negative.

Mr. Phelps, on motion, introduced the following resolution:

*"Resolved,* That this Council stand adjourned to the fourth Wednesday of November next, to meet at \_\_\_\_\_ in this state."

Which was read, and on motion, the blank was filled with "Burlington," and the resolution, as amended, was laid upon the table.

Adjourned to 9 o'clock, to-morrow morning.

THURSDAY, OCTOBER 25—9 O'CLOCK, A. M.

The Council met pursuant to adjournment.

The report of the committee, raised upon the resolution instituting an inquiry whether the 26th section of the constitution has been preserved inviolate during the last septenary, with the accompanying facts and resolution, was called up, and, on motion of Mr. Phelps, was again laid upon the table.

At the suggestion of Mr. Phelps, the resolution, in relation to an adjournment of the Council, was called up, and so amended, as to read as follows:

*Resolved*, That when this Council adjourns, it shall stand adjourned to the fourth Monday of November next, to meet at Burlington in this state."

Which resolution as amended, was laid upon the table.

Adjourned to 2 o'clock, P. M.

2 O'CLOCK, P. M.

The Council met pursuant to adjournment.

The report of the committee, appointed to inquire whether the 26th section of the constitution has been preserved inviolate during the last septenary, was called up, when

Mr. Turner moved that the further consideration of the report and accompanying resolution be referred to the next session of the Council, whereupon the yeas and nays were called, and being taken, were,

YEAS—Messrs. Aikens, Allen, Dana, Gates, Howe, Noble, Phelps, Sargent and Turner—9.

NAYS—Messrs. Griswold and Walton—2.

So the motion prevailed, and the further consideration of the report, with the accompanying facts and resolution, was referred to the next session of the Council.

On motion of Mr. Howe, the Council resolved itself into committee of the whole, on the report of the committee proposing amendments to the constitution, Mr. Griswold in the chair.

The committee of the whole took up the report, and after the disposal of sundry motions to amend, the committee rose, reported progress, and asked leave to sit again. Leave to sit being granted, 9 o'clock to-morrow morning was assigned as the hour of its session.

Adjourned to 9 o'clock, to-morrow morning.

FRIDAY, OCTOBER 26—9 o'clock, A. M.

The Council met pursuant to adjournment.

On motion of Mr. Turner, the Council resolved itself into committee of the whole, on the report of the committee, proposing articles of amendment to the constitution, Mr. Griswold in the chair.

*In committee of the whole, October 26, 1827.*

Mr. Aikens moved an amendment to the 8th article, which was adopted. Whereupon the committee rose, and through their chairman recommended to the Council the adoption of the amendment proposed to the 8th article; and the Council, concurring in the recommendation of the committee of the whole, adopted the amendment.

On motion of Mr. Phelps, the further consideration of the report of the committee was referred to the next session of the Council.

Mr. Phelps introduced the following resolution:

*Resolved*, That a committee of three persons be appointed whose duty it shall be, to draft an address to the freemen of this state, upon the several subjects acted upon by this Council."

Which was read and passed. Committee appointed, Messrs. Phelps, Griswold and Noble. The President was added to the committee by nomination and vote of the Council.

*Voted*, That the Secretary be requested to make up the debenture of the Council, and that the President and Secretary certify the same:

The Council adjourned to meet again at Burlington, in this state, on the 4th Monday of November next.

E. P. WALTON, *Secretary*.

## THIRD SESSION.

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BURLINGTON, MONDAY, NOVEMBER 26, 1827, }  
9 o'clock, P. M. }

The Council met pursuant to adjournment.

The President took the chair, and called the Council to order, when the following members appeared and took their seats, to wit: Mr. Aikens, President—Messrs. Griswold, Kellogg, Noble and Phelps.

On motion of Mr. Kellogg, the Council proceeded to the appointment of a Secretary, *pro tem*. Whereupon Mr. Kellogg was nominated and appointed.

Mr. Griswold introduced the following resolution:

"*Resolved*, That the Rev. Reuben Smith be requested to attend upon this Council as chaplain, during the present session."

Which was read and passed.

Mr. Griswold introduced the following resolution:

"*Resolved*, That the Sheriff of Chittenden county be requested to furnish an officer to attend upon the Council, during the present session."

Which was read and passed.

Adjourned to 9 o'clock, to-morrow morning.

DANIEL KELLOGG, *Sec. pro tem*.

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TUESDAY, NOVEMBER 27—9 o'clock, A. M.

The Council met pursuant to adjournment.

Messrs. Harris, Gates, Howe, Walton and Allen appeared and took their seats.

The journals of the Council, from the commencement of its first session, were read.

On motion of Mr. Phelps a committee of two members was appointed to report the unfinished business of the last session. Committee appointed, Messrs. Walton and Kellogg.

The resolution, reported by the committee, instructed to inquire whether the 26th section of the constitution has been preserved inviolate, was called up, and on motion of Mr. Kellogg, was laid upon the table.

Mr. Phelps introduced the following resolution:

"*Resolved*, That the Secretary be directed to procure from the Clerk of the House of Representatives a copy of any resolution of that House, within the last septenary, relative to the right of persons holding offices under the authority of Congress, to seats in that House."

Which was read and passed.

Mr. Kellogg introduced the following resolution:

"*Resolved*, That a committee of three members of this Council be appointed, with instructions to report an amendment to the proposition now before the Council, creating a Senate in lieu of the Executive Council, providing that all bills that shall have passed the House of Representatives and Senate, shall, before they become laws, be laid before the Governor for his examination and approval; and if the Governor shall not approve of such bill, he shall have power to return the same to the House of legislation in which it originated, with his objections in writing—and if such bill shall afterwards be passed by the two houses of legislation, the same shall become a law."

Which was read, and laid upon the table. Committee appointed, Messrs. Kellogg, Phelps and Harris.

Adjourned to 2 o'clock, P. M.

2 O'CLOCK, P. M.

The Council met pursuant to adjournment.

The committee appointed to report the unfinished business of last session, made the following

### REPORT.

"*To the Council of Censors, now sitting:*

The committee appointed to report the unfinished business of the Council, report the accompanying list as containing all the unfinished business of the Council, as appears by their journal.

### *List of Unfinished Business.*

1. Report of the committee, submitting articles of amendment to the constitution.
2. Report of the first committee, appointed to examine the laws of 1821, 2—3.

3. Report of the second committee, appointed to examine the laws of 1824, 5—6.
4. Report of the committee on the subject of alienage.
5. Report of the committee, in relation to the twenty-sixth section of the constitution.
6. The resolution, raising a committee to make inquiry as to the levying and collecting taxes and the disposal of public monies.
7. The resolution, raising a committee to examine the laws of 1827.
8. The resolution, raising a committee to draft an address to the freemen, upon the subjects acted upon by the Council.

Which is respectfully submitted.

E. P. WALTON, *for committee.*

*In Council of Censors, Nov. 27, 1827."*

The report of the committee, on the subject of alienage, was read and re-committed to the committee, with instructions to report an explanatory clause to the twenty-first section of the plan or frame of government.

The articles of proposed amendment to the constitution were called up, read article by article; and the *first, second, fifth, seventh, eighth, ninth* and *tenth* articles, adopted.

The *third* article was amended by transposing the last sentence from the close of the article, and inserting it in the sixth line, immediately after the word "fraction," and adopted, as amended. Voted to pass over the fourth article, and to amend the sixth article by inserting the words "*or disability*" immediately following the word "*absence*," in the sixth line; which article, as amended, was adopted, when,

On motion of Mr. Phelps, the word "article," at the commencement of each paragraph was erased and the word "section" inserted in lieu thereof, and the proposals of amendment as amended and passed, were laid upon the table.

The committee to whom was re-committed the report, on the inquiry whether the right of suffrage can legally be exercised in this state by persons not owing allegiance to the United States, made report of the following resolution:

"*Resolved*, That the following amendment be proposed to the people of this state, to be annexed to the twenty-first section of the plan or frame of government:—

*Provided*, That no person, not a native born citizen of this, or some one of the United States, shall be entitled to the right of suffrage, unless naturalized agreeably to the acts of Congress.

Which is submitted.

S. S. PHELPS, *for the committee."*

Which was read and laid upon the table.

Adjourned to 9 o'clock, to-morrow morning.

WEDNESDAY, NOVEMBER 28—9 o'clock, A. M.

The Council met pursuant to adjournment.

Messrs. Dana and Sargent appeared and took their seats.

The report of the committee to whom was recommitted the report on the subject of the right of suffrage by aliens, was called up, and the resolution reported by the committee amended, by erasing all that part of the resolution, immediately following the word "state," in the second line, and inserting the following substitute, offered by Mr. Kellogg, viz:

"No person, who is not already a freeman of this state, shall be entitled to exercise the privileges of a freeman, unless he be a natural born citizen of this, or some one of the United States, or until he shall have been naturalized agreeably to the acts of Congress."

The committee to whom was referred the resolution instituting an inquiry whether the public taxes have been justly laid and collected, made "REPORT—That, on examination, they do not find any thing which shews that the public taxes have not been justly levied and promptly collected, in all parts of the state, for the last seven years; and that there is nothing, in this respect, which requires the censure of the Council of Censors.

Which is submitted.

O. NOBLE, jr. *for committee.*

*Burlington, Nov. 28, 1827."*

Which was read and accepted, and referred to the committee raised to draft an address to the freemen.

The committee to whom was referred the resolution instituting an inquiry whether public officers, appointed to collect and receive the public monies, due the state, have regularly accounted for the same, made "REPORT—That, on examination, they do not find any defalcation of public officers, requiring the animadversion of this council.

Which is submitted.

O. NOBLE, jr. *for committee."*

Which was read and referred to the committee raised to draft an address to the freemen.

On motion of Mr. Phelps, a committee of three members was raised, to examine, and prepare the journals for publication. Committee appointed, Messrs. Walton, Kellogg, and Griswold.

Adjourned to 2 o'clock, P. M.

2 o'clock, P. M.

The Council met pursuant to adjournment.

The committee to whom was referred the resolution introduced by Mr. Kellogg, on the 27th instant, made a report, which was read and accepted, and the accompanying resolution adopted:

*Resolved*, That the following amendment be proposed to the people to be added to the constitution of this state, to wit:—

Every bill, which shall have passed the House of Representatives and Senate, shall, before it becomes a law, be presented to the Governor; if he approve he shall sign it; but if not, he shall return it, with his objections in writing, to that House in which it shall have originated, who shall proceed to reconsider it. If, after such reconsideration, a majority of the House shall pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by a majority of that house, it shall become a law. If any bill shall not be returned by the Governor within five days after it shall have been presented to him, or before the rising of the General Assembly, the same shall become a law.

Which is submitted.

D. KELLOGG, *for committee.*"

Mr. Griswold introduced the following section in addition to the above:

"Every order, resolution, or vote, to which the concurrence of both houses may be necessary, (except on a question of adjournment,) shall be presented to the Governor, and before it shall take effect, be approved by him, or being disapproved, shall be repassed by a majority of both houses, according to the rules and limitations prescribed in case of a bill."

Which was read, and on the question, Will the Council adopt the amendment proposed? the yeas and nays being called and taken, were

YEAS—Messrs. Aikens, Griswold and Howe—3.

NAYS—Messrs. Allen, Dana, Gates, Harris, Kellogg, Noble, Phelps, Sargent and Walton—9.

So the motion did not prevail, and the proposed amendment was rejected.

The committee appointed to examine the laws passed at the last session of the General Assembly, made the following

#### REPORT.

*To the Council of Censors, now in session;*

The committee appointed to examine the proceedings of the legislature at their session in 1827, report, that they have performed the duty assigned them, by examining the acts of the last session, so far as an opportunity has been afforded them, and they are not aware of



any law having been passed by the legislature at that session, requiring the animadversion of this Council.

Which is submitted.

A. AIKENS, *for committee.*"

Which was read and accepted, and referred to the committee raised to draft an address to the freemen.

Adjourned to 9 o'clock, to-morrow morning.

THURSDAY, NOVEMBER 29—9 o'clock, A. M.

The Council met pursuant to adjournment.

The report of the committee, proposing amendments to the constitution, providing for a Senate, was called up, and sundry amendments passed, when the Council, by an unanimous vote, adopted the articles submitted in the report, as follows:

## ARTICLE 1.

SECTION 1. The most numerous branch of the legislature of this state shall hereafter be styled the House of Representatives.

SECTION 2. The supreme legislative powers of this state shall hereafter be exercised by a Senate and the House of Representatives. These two bodies shall together be styled "the General Assembly of the State of Vermont." Each shall have and exercise the like powers in all acts of legislation; and no bill, resolution, or other thing, which shall have been passed by the one, shall have the effect of, or be declared a law, without the concurrence of the other. *Provided*, That all bills for raising revenue, shall originate in the House of Representatives; but the Senate may propose, or concur with amendments as on other bills.

SECTION 3. The Senate shall be composed of *twenty-eight* Senators, and no more, to be elected by the freemen of each county respectively. The Senators shall be apportioned to the several counties, in proportion to their population, according to the last census, next before each apportionment. *Provided*, That each county shall have at least one Senator; regard always being had, in the apportionment, to the counties having the greatest fraction. The legislature shall, immediately after the taking of each census of the United States, make a new apportionment of the Senators to the several counties, (agreeably thereto,) or to such other census as may be taken under the authority of this state—always regarding the above provisions in this section. The several counties shall, until after the

next census of the United States, be entitled to elect their Senators in the following proportion, to wit: Bennington county, *two*—Windham county, *three*—Rutland county, *three*—Windsor county, *four*—Addison county, *two*—Orange county, *three*—Washington county, *two*—Chittenden county, *two*—Caledonia county, *two*—Franklin county, *two*—Orleans county, *one*—Essex county, *one*—and Grand-Isle county, *one*.

SECTION 4. After the adoption of this article, the freemen of the several towns in each county, shall, annually, on the first Tuesday of September, vote by ballot for the number of Senators apportioned to such county. And the person, or persons, equal in number to the number of Senators for such county, having the greatest number of legal votes in his or their county respectively, shall be the Senator or Senators for such county, whose term of office shall commence and expire at the same time with that of the members of the House of Representatives. At every election of Senators, after the votes shall have been taken, the constable or presiding officer, assisted by the selectmen and civil authority present, shall sort and count the said votes, and make and certify two lists of the name of each person, with the number of votes given for each annexed to his name; a record of which shall be made in the town clerk's office; and shall seal up such lists separately, and write on each the name of the town, and these words, "Votes for Senator," or, "Votes for Senators," as the case may be; one of which lists shall be delivered by the presiding officer to the representative of said town, if any, and if none be chosen, to the representative of an adjoining town, to be transmitted to the President of the Senate; the other list, together with the said ballots, the said presiding officer shall, within ten days, deposit in the office of the clerk of the county court for the same county, and the clerk of each county court respectively, or in case of his absence or disability, the sheriff of such county, or in case of the absence or disability of both, the high bailiff of such county, on the tenth day after such election, shall publicly open, sort and count said votes, and make a record of the same, in the office of the clerk of the county court, a copy of which he shall transmit to the Senate; and shall also, on or before the first day of October (then) next, transmit to the person or persons elected, a certificate of his or their election. Provided, however, and it is hereby further ordained and declared, that the General Assembly shall have power to regulate by law the mode of balloting for Senators within the several counties, and to prescribe the means and manner by which the result of the balloting shall be ascertained, and through which the Senators chosen shall be certified of their election. But they shall

not have power to apportion the Senators to the several counties, otherwise than according to the population thereof, agreeably to the provisions herein before ordained.

SECTION 5. No person shall be a Senator, who has not attained the age of thirty years, and been two years an inhabitant of this state, the last of which he shall have resided in the county for which he is elected. And the Senators shall be under the same restrictions, prohibitions and disabilities, that the Councillors now are, by the nineteenth and twenty-sixth sections of the second chapter of the constitution of this state.

SECTION 6. The Senate shall have the like powers, to decide on the election, and qualifications, and to expel any of its members, and to make its own rules, and appoint its own officers, as is provided in the case of the House of Representatives. A major part of the Senators shall constitute a quorum. The Lieutenant Governor shall be President of the Senate, except when he shall exercise the office of Governor, in which case, and when the office shall be vacant, and in the absence or disability of the Lieutenant Governor, the Senate shall appoint one of its own members President *pro tempore*. The Lieutenant Governor, when presiding in the Senate, shall have a casting vote, but no other.

SECTION 7. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment, shall not extend farther than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit, under this state. But the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

SECTION 8. The supreme executive power of the state shall be exercised by the Governor, "or in case of his absence or disability, by the Lieutenant Governor," who shall exercise all the powers vested in, and perform all the duties enjoined upon the Governor and Council by the eleventh and twenty-seventh sections of the second chapter of the constitution, except he shall not sit as a Judge, to hear and determine on any impeachment, nor shall he, without the advice and consent of the Senate, grant pardons, or remit fines, lay embargoes, or prohibit the exportation of any commodity. Neither shall he command the forces of the state in person, unless on the advice and consent of the Senate, and then only so long as it shall approve thereof. The Governor may have a Secretary of civil and military affairs, whom he may appoint during pleasure, whose servi-

ces he may at all times command, and for whose compensation provision shall be made by law.

SECTION 9. The votes for Governor, Lieutenant Governor, and Treasurer of the state, shall be sorted and counted, and the result declared, by a committee appointed by the Senate and House of Representatives. If, at any time, there shall be no due election by the freemen of Governor, Lieutenant Governor or Treasurer of the state, the Senate, with the House of Representatives, shall by a joint ballot, elect to the office of Governor, Lieutenant Governor or Treasurer of the state, as the case may be, one of the three candidates for those offices respectively for whom the greatest number of votes shall have been returned.

SECTION 10. The Secretary of State, and all officers who, under the existing provisions of the constitution, are elected by the House of Representatives and Council, shall hereafter be elected by the Senate and House of Representatives, in joint committee, at which, the Governor, or in his absence or disability, the Lieutenant Governor shall preside; and the presiding officer of any such committee shall have a casting vote, and no other.

## ARTICLE 2.

Every bill, which shall have passed the House of Representatives and Senate, shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it, with his objections in writing, to that house in which it shall have originated, who shall proceed to re-consider it. If, after such re-consideration, a majority of the house shall pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be re-considered, and if approved by a majority of that house, it shall become a law. If any bill shall not be returned by the Governor, within five days after it shall have been presented to him, or before the rising of the General Assembly, the same shall become a law.

## ARTICLE 3.

No person, who is not already a freeman of this state, shall be entitled to exercise the privileges of a freeman, unless he be a natural born citizen of this or some one of the United States, or until he shall have been naturalized agreeably to the acts of Congress.

Which was referred to the committee raised to draft an address to the freemen.

Mr. Sargent introduced the following resolution :

*"Resolved, two-thirds of this Council concurring herein, That it is expedient to call a convention to meet at the state house in Montpelier, on the 26th day of June, 1828, for the purpose of taking into consideration such amendments to the constitution, as shall be proposed by this Council."*

Which was read, and on the question, Will the Council pass the resolution? the yeas and nays were taken, and were,

YEAS—MESSRS. Aikens, Allen, Dana, Gates, Griswold, Harris, Howe, Kellogg, Noble, Phelps, Sargent, Turner, and Walton—13.

NAYS—none.

So the resolution was adopted, and was referred to Mr. Sargent, to draft an ordinance.

Adjourned to 2 o'clock, P. M.

2 O'CLOCK, P. M.

The Council met pursuant to adjournment.

Mr. Harris introduced the following resolution :

*"Resolved, That the first, second, third, ninth, tenth, eleventh, sixteenth, nineteenth, twenty-first, twenty-fourth, twenty-sixth, twenty-seventh, and thirty-ninth sections of the second chapter of the present constitution of this state, be published with the amendments proposed by this Council, as being either altered, amended or abolished, either in whole or in part, by said proposed amendments."*

Which was read and laid upon the table.

The President introduced the following resolution :

*"Resolved, That the following title be prefixed to the proposed articles of amendment to the constitution of this state, to wit:—  
"Articles of amendment to the constitution of the state of Vermont, proposed by the Council of Censors on the 29th day of November, 1827."  
And that to the sections of the constitution which will be altered or superseded by the adoption of the amendments, there be prefixed the following title, to wit:—"Sections of the constitution of the state of Vermont which will be altered or superseded by the adoption of the amendments proposed by the Council of Censors."*

Which was read and adopted.

Adjourned to 6 o'clock, this evening.

6 O'CLOCK, EVENING.

The Council met pursuant to adjournment.

Mr. Turner appeared and took his seat, and had leave to record his vote in favor of the resolution introduced by Mr. Sargent, resolving that it is expedient to call a convention.

The Secretary submitted the following communication, from Timothy Merrill, Esquire, Clerk of the General Assembly, in compliance with a resolution of this Council, passed Nov. 26, 1827, to wit :

*Resolved*, as the sense of this House, That any person, holding and exercising the office of postmaster, is *not* eligible to the office of representative, in this House; and, by the constitution of this state, is not entitled to a seat in the General Assembly.

*In General Assembly, Oct. 22d, 1827.*

Read, and ordered to lie on the table.

*In General Assembly Nov. 14th, 1827.*

Called up—and on the question, Shall the resolution be dismissed? the yeas and nays were taken—yeas 23, nays 155—and the resolution passed.

STATE OF VERMONT, }  
CLERK'S OFFICE, MONTPELIER, NOV. 27, 1827. }

I hereby certify that the foregoing is a true copy of a resolution, passed by the General Assembly of the State of Vermont, at their October session, 1827.

T. MERRILL,

*Clerk of the Gen. Assembly.*

DEAR SIR:

A resolution was, also, passed, directing the committee of elections "to inquire, if any, and how many there are, holding seats in "this House, who, at the time of their election, were holding offices "of profit or trust under the authority of Congress; and make report to the House." The committee made report, in substance, that several members of the House, at the time of their election, were deputy postmasters—and stating that the office of postmaster is held under the authority of Congress, &c.; which report was concurred in, &c.

After as diligent a search as the time would permit, I have not been able to discover any resolution of the House of Representatives, during the last septenary, relative to the subject mentioned in the resolution of the Honorable Council of Censors, except as above stated.

I am, respectfully,

Your obedient serv't.

Gon. E. P. WALTON.

T. MERRILL.

Which was read and laid upon the table.

Mr. Sargent made report of a draft of an ordinance; which was read and laid upon the table.

Adjourned to 9 o'clock, to-morrow morning.

FRIDAY, NOVEMBER 30—9 o'clock, A. M.

The Council met pursuant to adjournment.

The resolution introduced by Mr. Harris, designating the several sections of the present constitution of Vermont which will be altered, amended or abolished by the amendments proposed by this Council, was called up and passed.

The resolution offered by Mr. Griswold, on the 24th October last, and the communication of the Clerk of the General Assembly, in relation to the subject matter of the resolution, were called up, when

Mr. Kellogg moved to amend the resolution by erasing the words, "*been considered as eligible to appointments in the legislature, and held appointments in the same,*" and inserting in lieu thereof the words, "*received and held appointments in the legislature.*" And on the question, Will the Council adopt the amendment proposed? the yeas and nays were called, and being taken, were,

YEAS—Messrs. Aikens, Allen, Dana, Gates, Howe, Kellogg, Noble, and Phelps—8.

NAYS—Messrs. Griswold, Harris, Sargent, and Walton—4.

So the proposed amendment was adopted. The resolution, as amended, passed, as follows:

"*Resolved*, as the opinion of this Council, That the twenty-sixth section of the constitution has, during the last septenary, been violated in this respect, to wit: That sundry persons, holding offices of profit and trust, under the authority of Congress, have received and held appointments in the legislature; and also, that like persons, during said period, have held judicial offices under this state."

Which was referred to the committee raised to draft an address to the freemen.

The report of the committee submitting a draft of an ordinance, providing for calling a convention, was called up and adopted, in the words following:

**State of Vermont.** }  
*In Council of Censors, Nov. 29, 1827.* }

THIS Council, having agreed to propose certain amendments to the constitution of this state; and having determined to call a convention to consider such amendments;—

THEREFORE, *IT IS ORDERED* by said Council, That a convention of the people of the state of Vermont shall meet at the state house in Montpelier, on the 26th day of June, A. D. 1828, to consider of the amendments to the constitution proposed by this Council, and to adopt the same, or such parts thereof, as the said convention shall judge will be most conducive to the good government, peace and happiness of the people of this state.

And for the purpose of electing delegates to attend said convention, the first constable, or, in his absence, the town clerk, or, in his absence, one of the selectmen of each town in this state, entitled to send a representative to the General Assembly, without further order, shall set up a notification at such place or places as shall have been appointed for notifying town meetings in such towns, at least ten days before the tenth day of June next, warning the freemen of their respective towns to meet on the tenth day of June, 1828, at one of the clock, afternoon, at the place where the last freemen's meeting was held in such town, for the purpose of electing a delegate to represent the freemen of said town in said convention—at the opening of which meeting, this order shall be publicly read.

And the first constable, or, in his absence or disability, the town clerk, or some one of the selectmen of each town, or a justice of the peace, shall preside at such meeting; whose duty it shall be, to call on the freemen of such town, from time to time, for the space of two hours, to give in their votes for such delegate; which votes shall be given and received in the same manner and under the same regulations as is by law provided in the case of electing representatives to the General Assembly. And at the expiration of which time, the votes so taken, shall, by the said presiding officer, with the assistance of the selectmen and justices of the peace in such town, be sorted and counted; and if no person shall have a majority of all the votes, the said presiding officer shall notify the same, and again call upon the freemen, as aforesaid, giving a reasonable time only for receiving such votes, until an election shall be made.

And after an election shall have been made, as aforesaid, the presiding officer of such meeting shall deliver to the person elected, a certificate of the following tenor, to wit:

*"At a freemen's meeting warned and holden at ———, in pursuance of an order of the Council of Censors, on the 10th day of June, 1828,*



*A. B. was elected a delegate by a majority of the freemen present, to represent the inhabitants of ———, in convention to be holden on the 26th day of June instant, for the purpose of taking into consideration certain amendments to the constitution of this state, proposed by said Council of Censors in November last.*

Given under my hand, at ———, this 10th day of June, 1828.

*C. D. First constable or presiding officer."*

Which certificate shall be a sufficient credential of such person's election.

Adjourned to 2 o'clock, P. M.

2 o'clock, P. M.

The Council met pursuant to adjournment.

Mr. Kellogg introduced the following resolution:

*"Resolved, That six hundred copies of the journal of this Council be printed; and that two hundred and sixty copoies thereof be delivered to the Surveyor of the public buildings, at Montpelier, to be kept and distributed among the members of the Convention, when assembled on the 26th day of June, 1828; and that the remaining copics be delivered to the Sheriffs of the several counties, to be by them distributed as follows, to wit:—To the Governor, four copies; Lieutenant Governor, two copies; to the Secretary of State, twenty-five copies; to the Secretary of the Governor and Council, ten copies; to the late Governors, Tichenor, Galusha, Chittenden, Skinner and Van Ness, each two copies; to the Judges of the Supreme Court, each one copy; to the Clerks of the several towns, each one copy; to the members of this Council, each four copies; and to the Clerk of the General Assembly, ten copies."*

Which was read and passed.

Mr. Griswold introduced the following resolution:

*"Resolved, That the Secretary be directed to transmit to His Excellency the Governor of this State, a certified copy of the articles of amendment proposed by this Council to the constitution, and the papers thereto subjoined; and signify to him the request of the Council, that he will cause the same to be laid before the Convention, when assembled at Montpelier, on the 26th day of June, A. D. 1828."*

Which was read and passed.

Mr. Griswold introduced the following resolution:

*"Resolved, That the Secretary procure six hundred copies of the address, accompanying the amendments to the constitution, to be printed, with the articles, sections and ordinance thereto annexed;*

and that he distribute them by mail, as follows, to wit:—To the Governor, *ten* copies; to the Lieutenant Governor, *five* copies; to the Secretaries of State and Council, to the members of the Council and House of Representatives, and Clerk of the Assembly, each *one* copy; to the late Governors, Tichenor, Galusha, Chittenden, Skinner, and Van Ness, each *five* copies, to the first Constables of the respective towns, each *one* copy; and to the members of the Council of Censors, each *four* copies.

Which was read and passed.

Adjourned to 7 o'clock, this evening.

7 O'CLOCK, EVENING.

The Council met pursuant to adjournment.

The committee, raised to draft an address to the people, reported the following

## ADDRESS.

TO THE FREEMEN OF THE STATE OF VERMONT:

The Council of Censors, chosen on the last Wednesday of March, A. D. 1827, being about to close their official labors, have thought it proper, in compliance with previous usage, to present to the public, in the form of an address, the result of their deliberations.

The duties and powers of the Council, so far as it is considered necessary to notice them on this occasion, may be elassed under two heads:—

First, They are to inquire whether the constitution has been preserved inviolate, in all its parts. And

Secondly, They have power to propose such amendments to the constitution of this state as they shall deem expedient, and to call a convention of the people for their adoption.

In the prosecution of their inquiries, under the first branch of their duties, the Council have discovered, with great satisfaction, that few violations of the constitution have occurred; and that there is little in the administration of the government, in its various departments, which they find it necessary to censure.

In reviewing the history of our state, we find that no Council has been elected under our present constitution, who have not found it necessary to censure, and often in pointed terms, a departure from the constitution, and from those principles which have ever been considered indispensable, both to the safety and permanence of our

political institutions, and to the public welfare. But owing, as we believe, to the general increase of intelligence—to a more intimate and correct acquaintance on the part of the people of this state, with the theory and leading principles of their civil institutions, and, above all, to an improvement in the administration of the judiciary department, of which the state may justly boast, these instances are rapidly diminishing; and we indulge the hope, that the time will soon arrive, when little or nothing need be said, by a subsequent Council of Censors, under this branch of their inquiries.

The present Council, however, find it to be their duty to animadvert upon two particulars, in which the constitution has, in their view, been violated.

The first is attributable to a principle of legislation, in the opinion of the Council, palpably at war with the principles of our constitution, and which the Council regret to say, has been persisted in, notwithstanding the repeated animadversions of different Councils of Censors. We allude to the practice, which until very recently, has obtained in the legislature of passing acts, (for laws they cannot be termed,) exempting individuals from the operation of the general laws of the land. Of this nature are certain acts of suspension, acts granting new trials, and granting appeals, where none were allowed by law, which will be found enumerated in the journal of the Council. These acts, the Council deem unconstitutional, as they tend to exempt individuals from the general laws of the land, and also interfere, in a manner wholly unauthorized, with the proceedings of the judiciary department. The Council however are aware, that the highest judicial tribunals have pronounced these acts to be void, and they have reason to hope that this decisive interposition of the courts, will hereafter prevent their enactment.

The other instance in which the constitution has, in our opinion, been violated, consists in the fact, that persons holding offices of profit and trust under the authority of Congress have been permitted to hold seats in the legislative body, and have been appointed to and held judiciary offices under the authority of this state. That such has been the fact, the Council are fully satisfied. At the same time it is proper to remark, that we know of no instance, in which the legislature have expressly sanctioned the procedure, and we are also aware that the General Assembly did at their last session, by an explicit resolution, declare such persons ineligible to seats in that house. But it must be admitted that many instances of the kind have passed unnoticed. The Council therefore feel themselves bound to express their opinion: It is, first, that the provision of the constitution is too clear and explicit to admit of doubt as it respects

persons holding offices of profit and trust, created by act of Congress; and, secondly, that the reason and propriety of the provision, are too obvious, and its importance too manifest to admit of its being disregarded.

The Council deem it their duty to go further, and to say that the practice, (if such practice has obtained in the state,) of depositing a resignation of an office incompatible with a seat in the legislature, in the hands of a friend, with a view to obtain a seat in the house, and with a view to withdraw such resignation after the session shall have terminated, is to be regarded, for the most obvious reasons, as a mere evasion of the constitution.

With these exceptions, the Council are gratified to find, that the administration of the government in all its departments, has been conducted as they believe, with a scrupulous regard to the land-marks established by the constitution, and with a purity of purpose, calculated to sustain and perpetuate our free republican system.

We are not disposed to enumerate all the various subjects of our inquiries under this head. It is sufficient to say with respect to such as are not specifically mentioned that we find nothing wrong.

The power of proposing amendments to the constitution is one with respect to which, the Council have felt great responsibility. Knowing, as we do, that the main features of our present constitution are approved by the people of the state; knowing that the state has prospered under it; that public security and private happiness have been thus far the fruits of it; that it was dangerous to unsettle foundations, and that the people were averse to doing so, we have approached this subject with extreme caution—disposed to remedy its defects, without doing violence to the fabric—to supply the deficiencies which experience may have suggested, without violating the system which experience has approved. We have found it, like every other work of human contrivance, deficient—and we have proposed such amendments, and such only, as we believe the people of this state have already discovered to be necessary.

Three propositions of amendment are submitted to the freemen. The third article relates to a subject, which has been often agitated, and has been a subject of much difficulty. Whether a person not owing allegiance to the United States, can or cannot be made a freeman under the constitution of this state, is a question which we have not known to be settled, by any authority whose decisions would extend through the state. The constitution, in the terms of it, we consider equivocal, and we are informed that different constructions of it and different practices prevail in different parts of the state. We have thought it expedient, with a view of settling this question,

to propose the annexed article. Doubting as we do whether any person can legally be made a freeman of this state, who owes no allegiance to the United States, especially as the power of naturalization, is by the constitution of the United States vested exclusively in Congress, and considering the gross impropriety of admitting those to participate in the elective franchise, who owe no allegiance to the country, we have submitted the article in its present form;—at the same time the article is so framed, that no person, now a legal freeman of the state, will be disfranchised by it.

The first article, which provides for the creation of a Senate, is the important amendment, to which the Council would call the attention of their fellow-citizens. They have been induced to make this proposition by considerations too numerous and complicated to be embodied in this address. Some few of them may perhaps be concisely stated.

They consider the division of the legislative power, between, at least two bodies, as essential to its safe exercise. And in this opinion they are fortified, as they believe, by the experience of all ages. No government, either in ancient or modern times, in which the legislative power has been vested in a single body, has endured long. We might enlarge upon this point, did the limits of this address admit; but the subject has long since been exhausted by abler pens, and we will only add, that in this position, we consider ourselves supported, at this day, not only by the common opinion, but by the general experience of mankind.

We would also refer our fellow-citizens to the constitution of the United States, and to those of the respective states in the Union. In all of these, we believe, the legislative power is now vested in two co-ordinate branches. Many of them were originally like ours; but in every such instance time and experience have led to a change; and we have now the example of every state in the Union for the measure proposed.

It would be well, we think, that the people of Vermont should consider, whether a measure, which in every other state has been found necessary, and sooner or later adopted, be or be not worthy of their adoption.

But if reasons are necessary to shew the measure expedient, or necessary here, they might be found, we believe, in every page of our political history.

We cannot go into a minute examination of this subject, but we beg leave to refer our fellow-citizens to the notorious instability, not to say fickleness of our legislation; to the continual fluctuation produced by laws, hastily, not to say inconsiderately passed, and of course

cessarily altered or repealed. If an instance is wanting it may be found in the successive and rapid changes in the laws relating to the judicial department. It is much to be regretted that, in a subject of such common interest and general concern, so much uncertainty and embarrassment should exist. It is believed that the introduction of a co-ordinate branch into our legislature, would tend to greater stability, and, in a great measure, remedy the evils suggested.

But there is another consideration, which, with the Council, is insurmountable. The unfortunate collision which has for some time existed between the Executive Council and the General Assembly, involving the respective powers of the two houses, calls loudly for the interference of the freemen.

It is a contest between two bodies, neither of which acknowledge the other as superior, and between whom there is no arbiter to decide.—This contest, for aught the Council can discover, must continue until the constitution is either explained or altered by competent authority. It is not believed that the people desire the continuance of this unfortunate contest. The Council of Censors have thought it their solemn duty to suggest a remedy, and in providing one, they have followed the course, which the experience of the world (so far as they are acquainted with it) has dictated.

Another consideration has not escaped us: The present Executive Council are elected by a general ticket, and it is unquestionably true, that a great majority of the freemen cast their votes for men of whom they know nothing, and for whom they vote, because their names are to be found in some newspaper as candidates for the office. This mode of election is, in the opinion of the Council, inconsistent with every principle of fair representation.

To remedy this evil we propose a Senate, to be elected in their respective counties, where the members elected, and their qualifications may be known to the freemen; where, in short, the people may know for whom they vote, and whom they trust. It is not thought proper to examine, at this time, all the details of the project submitted. The second article proposed merely secures to the Governor the power which he already exercises as the presiding officer of the Executive Council. It is not considered expedient to deprive him of that power. At all events, he has, by the proposition, no negative on the proceedings of the legislature.

On the whole, the Council commit themselves to the candor of their fellow-citizens. They have discharged their duty, and submit the propositions, relying upon the good sense of the people for their adoption.

Which was read and unanimously adopted.

Adjourned to 9 o'clock, to-morrow morning.

SATURDAY, DECEMBER 1—9 o'clock, A. M.

311 The Council met pursuant to adjournment; and there appearing no further business that required the attention of the Council of Censors, they adjourned without day.

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I HEREBY certify that the foregoing is a true journal of the Council of Censors, at their several sessions in June, October and November, 1827.

E. P. WALTON, *Secretary*,